

February 18, 2015

**Via Electronic Submission**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW - Lobby Level  
Washington, DC 20554

**Re: Protecting and Promoting the Open Internet; Framework for  
Broadband Internet Services; GN Docket No. 14-28; GN Docket No. 10-127**

Dear Ms. Dortch:

We are contacting you regarding “zero rating,” a practice that has no place on an open Internet. We urge the Commission to include a clear and unequivocal ban on the practice in its upcoming rules protecting an Open Internet.

Zero rating refers to forms of price discrimination by telecom operators wherein they offer access to certain forms of content, specific applications or services without counting the data received against bandwidth limits or volume allowances.

Countries around the globe have already banned this practice.<sup>1</sup> These include regulators in Canada, Norway, Chile, Netherlands, Slovenia, Germany and Austria. The Open Internet Order, passed by the Commission in December 2010 and struck down in January 2014, also included clear rules that banned such price discrimination schemes.

The Commission has developed a robust record with a strong emphasis on the importance of preventing discriminatory practices on the Internet, whether fixed or mobile. It is therefore imperative that the FCC ban “zero rating” services in its Open Internet Order. If the Commission fails to prevent these practices, its silence will be treated by Internet service providers as approval to expand on them.<sup>2</sup> Just recently Verizon explicitly told the Commission that the reasoning for challenging the

---

<sup>1</sup> Antonios Drossos, “Guest Blog: the real threat to the open Internet is zero-rated content,” World Wide Web Foundation, Feb. 17, 2015, <http://webfoundation.org/2015/02/guest-blog-the-real-threat-to-the-open-internet-is-zero-rated-content/>; David Meyer, “Canada cracks down on zero-rating in two net neutrality rulings,” GigaOm, Jan. 29, 2015, <https://gigaom.com/2015/01/29/canada-cracks-down-on-zero-rating-in-two-net-neutrality-rulings/>.

<sup>2</sup> See e.g. “In January 2014, AT&T launched Sponsored Data, a service that allows advertisers to sponsor mobile data for its subscribers. All other major national carriers are considering similar products, according to multiple executives familiar with the industry....After the new FCC rules are implemented, adoption of zero-rating programs could accelerate....Several wireless carriers in the U.S. and Europe are exploring similar programs to turn their pipes into advertising channels, according to ad-tech executives. And they are all watching the FCC ruling carefully. “All the operators have skin in the game,” said Mr. Greenbaum, “or plan to have skin in the game.”” Mark Bergen, “Net Neutrality Policy Likely to Permit Sponsored Data Programs,” Advertising Age, Feb. 12, 2015, <http://adage.com/article/digital/net-neutrality-policy-permit-sponsored-data/297071/>.

Commission's 2010 Open Internet Order was because it banned "zero rating" for a fee and they intend to implement such a discriminatory regime.<sup>3</sup> Such practices must be banned once again.

At the outset of this proceeding, the Commission noted:

It is important to always remember that the Internet is a collection of networks, not a single network. And that means that each broadband provider can either add to the benefits that the Internet delivers to Americans—by maintaining Internet openness and by extending the reach of broadband networks—or it can threaten those benefits—by restricting its customers from the Internet and preventing edge providers from reaching consumers over robust, fast and continuously improving networks. This is a real threat, not merely a hypothetical concern.

This statement speaks to the importance of understanding the true value of "the Internet." Countries that have allowed zero rating practices have seen the parallel degradation of this fundamental idea of openness and the value of "the Internet," access to which the vast majority of global citizens view as a human right.<sup>4</sup> A recent survey found that users in these countries have a skewed perception of "the Internet."<sup>5</sup> More than 50 percent of users in Brazil, India, Indonesia and Nigeria agreed with the statement "Facebook is the Internet." In the U.S., only 5 percent of respondents agreed.

It's clear that the U.S. has the chance to set a strong example for the world about what the open Internet is, and how we can best protect it. The purported goal of zero rated services is to bring the Internet to more people worldwide — yet these schemes are simply expanding the customer base for individual applications and services.

The U.S. has ensured that those who are newly connected, on both fixed and mobile, gain access to "the Internet." Indeed, a recent joint study by Facebook and McKinsey & Company found that "U.S. residents were at the vanguard of the global population in encountering, understanding, and embracing the utility of the Internet."<sup>6</sup> A central tenet of this proceeding is ensuring the U.S. continues as a global vanguard. Allowing the dangerous practice of zero rating to continue will achieve the opposite result.

---

<sup>3</sup> Letter from Verizon to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-28, Feb. 11, 2015, <http://apps.fcc.gov/ecfs/comment/view?id=60001015800>.

<sup>4</sup> See e.g. Internet Society, Key Findings, 2012, [http://www.internetsociety.org/surveyexplorer/key\\_findings](http://www.internetsociety.org/surveyexplorer/key_findings).

<sup>5</sup> Leo Mirani, "Millions of Facebook users have no idea they're using the internet," Quartz, Feb. 9, 2015, <http://qz.com/333313/millions-of-facebook-users-have-no-idea-theyre-using-the-internet/>.

<sup>6</sup> McKinsey & Company, "Offline and falling behind: Barriers to Internet adoption," September 2014, p. 95, [http://www.mckinsey.com/Insights/High\\_Tech\\_Telecoms\\_Internet/Offline\\_and\\_falling\\_behind\\_Barriers\\_to\\_Internet\\_adoption](http://www.mckinsey.com/Insights/High_Tech_Telecoms_Internet/Offline_and_falling_behind_Barriers_to_Internet_adoption).

Beyond creating dramatically misleading perceptions for users, price discrimination schemes, such as zero rating, skew the competitive marketplace and setup gatekeepers that can quickly stifle innovation. The FCC has heard from a multitude of venture capitalists and startups about the dangerous and harmful implications zero rating will have on these communities.<sup>7</sup>

Zero rating can be just as harmful as blocking or throttling and is becoming more rampant throughout the world. It is poised to do so in the U.S. as well, barring Commission action to ensure this loophole is closed ahead of the vote on Feb 26.

We appreciate and share your commitment to enshrining strong Net Neutrality rules on both fixed and mobile platforms in the United States. We urge you to include a clear ban on zero rating in your upcoming rules — the open Internet will simply not be protected if such schemes are allowed.

Sincerely,

Peter Micek  
Senior Policy Counsel  
Access  
[www.accessnow.org](http://www.accessnow.org)

---

<sup>7</sup> See e.g. "They should also not engage in non-technical discriminations, such as excluding some applications from bandwidth caps while subjecting others to them." Comments of Engine Advocacy, GN Docket No. 14-28, April 24, 2014, <http://apps.fcc.gov/ecfs/document/view?id=7521099354>.